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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,157	01/24/2001	Edward O. Clapper	42390P10898	5252
21906	7590	10/02/2006	EXAMINER	
TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			RAMAKRISHNAIAH, MELUR	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769,157

Applicant(s)

CLAPPER, EDWARD O.

Examiner

Melur Ramakrishnaiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 57-60 and 70-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 57-60, 70-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7-6-2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 8-11, 14-15, 17-18, 20, 57, 60, 70-72, 76-77, 82-84 rejected under 35 U.S.C. 103(a) as being unpatentable over Menard et al. (US PAT: 6,061,056, hereinafter Menard). In view of Nishiuchi (JP 05-089558).

Regarding claim 1, Menard discloses a method comprising: receiving a media to store content in a storage (18, fig. 2), searching the content that has been stored for an instance of a clip (reads on keyword in the closed caption stream, col. 5 lines 7-18) that was captured, the clip captured at random other than near a start of a particular content item and before the searching if the clip is found, storing in another storage (20, figs. 1-2) one segment of the content in which clip was found, the storage of one segment of the content in which the clip was found, the storage of one segment from an identified

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start of one segment and including the clip otherwise if clip is not found, discarding a portion of the previously searched content (figs. 1-2, col. 4, line 54 – col. 6, line 46).

Regarding claim 14, Menard discloses an apparatus comprising: a receiver (2, fig. 1) to receive a media stream, capture trigger to designate a clip (reads on keyword in the closed caption stream, col. 5 lines 7-18) of the media stream, the clip captured other than near a start of the block of content (col. 5 lines 24-38) a storage system (20, fig. 1) coupled to the receiver to store the clip, the media stream that is converted to digital, , and a block of content, the block a subset of the digital media and including the clip and processing system (12, fig. 1) coupled to the storage system to search for the clip in the stored media stream after storage of the clip, and in response to finding the clip, identify a start point of the block including the clip, and store the digital data (figs. 1-2, col. 4, line 54 – col. 6, line 46).

Regarding claim 70, Menard further teaches an article comprising machine readable storage medium containing instructions that if executed enable a system to: receive a media stream to store the media stream in a storage in digital form (18, fig. 2), search in the digital data from the stream storage for an instance of a clip (reads on keyword in the closed caption stream, col. 5 lines 7-18), the clip captured at random and other than near start of particular content item, the capture before the search, the clip to be stored in a clip storage (20, fig. 1), and if the clip is found, store, in a storage unit other than the stream storage, a first portion of the digital data from an identified atart of the first portion and including the clip, otherwise if the clip is not found, discarding a

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portion of the digital data that has been searched (figs. 1-2, col. 4, line 54 – col. 6, line 46).

Regarding claim 76, Menard discloses a method comprising: capturing an arbitrary clip at one time, the capture after a beginning portion of a block of content that includes the clip (reads on keyword in the closed caption stream, col. 5 lines 7-18), after the capture, finding the clip in a digital rendering of the media stream and in response to finding, identifying in the digital rendering, a start of a block of content that includes the clip to store the block from the start (figs. 1-2, col. 4, line 54 – col. 6, line 46).

Menard differs from the claimed invention in that he does not teach capturing the trigger clip from a media stream.

However, Nishiuchi discloses image recorder which teaches the following: capturing the trigger clip from a media stream (drawing 1, see abstract; paragraphs: 0006-0008).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Menard's system to provide for the following: capturing the trigger clip from a media stream as this arrangement would automate capturing of trigger clip as taught by Nishiuchi, thus reliving the user of the burden of manually entering this information.

Regarding claims 2-4, 6, 8-11, 15, 17-18, 20, 57, 60, , 71-72, Menard further teaches the following: performing digital signal processing upon a window of the media stream to produce digital signal processing window result, comparing the digital signal processing window result to the digital signal processing clip result, identifying the start

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point of the first portion and an end portion of the first portion from the media stream, and storing the first portion of the media stream from the start point to the end point, again finding the clip in the media stream, and storing another portion of the media stream greater than and including clip, media stream comprises audio, media stream comprises video, media stream comprises television, receiving parameters, and wherein at least one of finding and storing are responsive to parameters, parameters comprise at least one of: an estimated time into the first portion that a trigger was activated, a length of possible block to watch, etc, a block manager in (12, fig. 1) to store a block of media stream to storage system, the clip is a subset of the block, the receiver is coupled to receive the media stream over a wireless broadcast channel, an output device (5, figs. 1-2) coupled to the receiver to play the media stream, processing system comprises a block manager, the block manager containing instructions that, if executed enable the processor to locate two blocks in the media stream, the block including the clip, storage comprises a clip storage (18, fig. 2) to store the clip, block storage (20, figs. 1-2) to store one or more blocks, stream storage (20) to store media stream, finding one or more blocks includes identifying the clip in the media stream, storing one or more blocks, strong one or more blocks includes identifying a start point and end point of a given block in the media stream, and strong the media stream from the start point to the end point, during play of a particular block after start of the particular block, receiving a signal to record the clip (figs. 1-2, col. 4, line 54 – col. 6, line 46).

Regarding claims 77, 82-84, Menard further teaches the following: finding the clip in the media stream at another time, and storing another block of content from the start of another block, finding the clip includes performing digital signal processing (reads on smart TV software 12, fig. 1) upon stored media stream and upon the clip to produce processing results, and comparing the processing results for media stream and the clip, discarding a portion of the searched media stream in which clip is not found, media stream comprises television (figs. 1-2, col. 4, line 54 – col. 6, line 46).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 58-59, 73, 78-79 rejected under 35 U.S.C. 103(a) as being unpatentable over Menard in view of Nishiuchi as applied to claims 1, 14, 76 above, and further in view of Honma (JP 2000-312323).

Regarding claims 5, 58, 73, 78-79, the combination does not teach the following: comparing the one segment to the other segment, and discarding one segment to the other segment, based on comparison, enable the block manager to compare a first block and a second block, and to discard one of the blocks, based on comparison selecting a better of the blocks, discarding the block that was not selected, instructions to enable the system to compare the first portion, and discard one of the portions based on the comparison.

However, Honma discloses a program reservation video recording apparatus which teaches the following: comparing the first portion to other portion, and discarding one of the portions, based on comparison, enable the block manager to compare a first block and a second block, and to discard one of the blocks, based on comparison selecting a better of the blocks, discarding the block that was not selected, instructions to enable the system to compare the first portion, and discard one of the portions based on the comparison (Drawing: 4, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: comparing the first portion to other portion, and discarding one of the portions, based on comparison, enable the block manager to compare a first block and a second block, and to discard one of the blocks, based on comparison selecting a better of the blocks, discarding the block that was not selected, instructions to enable the system to compare the first portion, and discard one of the portions based on the comparison as this arrangement would facilitate the user to discard the unsatisfactory recording of the data and retain the good recording for his use as taught by Honma.

Regarding claim 59, Menard teaches the following: instructions to enable the block manager to discard a portion of the media stream that does not include the clip (see abstract).

6. Claims 7 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Menard in view of Nishiuchi as applied to claims 1 and 14 above, and further in view of Matsumoto (JP 410055656A).

Regarding claims 7 and 16, the combination does not teach the following: audio comprises broadcast radio, media stream comprises a radio block and the block comprises a song.

However, Matsumoto discloses received information-recording system, which teaches the following: audio comprises broadcast radio, and media stream comprises a radio block and the block comprises a song (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nishiuchi's system to provide for the following: audio comprises broadcast radio and media stream comprises a radio block and the block comprises a song as this arrangement would enable the users to record radio programs as taught by Matsumoto.

7. Claims 12-13, 74-75, 80-81, are rejected under 35 U.S.C. 103(a) as being unpatentable over Menard in view of Nishiuchi as applied to claims 1, 70, 76 above, and further in view of Hasegawa et al. (US PAT: 6,570,080, filed 5-18-2000, hereinafter Hasegawa)

Regarding claims 12-13, 74-75, 80-81 the combination does not teach the following: identifying the media content item corresponding to the clip, and obtaining the media content from a source which is different than the media stream, source is an on-line retailer, identifying the block corresponding to the clip and obtaining the block from a source which different than the media stream, obtaining the block from a on-line retailer.

However, Hasegawa discloses method and system for supplying contents via communication network which teaches the following: identifying the media content item corresponding to the clip, and obtaining the media content from a source which is different than the media stream, source is an on-line retailer, identifying the block corresponding to the clip and obtaining the block from a source which different than the media stream, obtaining the block from a on-line retailer (col. 2 lines 38-67, col. 3 lines 1-53).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: identifying the media content item corresponding to the clip, and obtaining the media content from a source which is different than the media stream, source is an on-line retailer, identifying the block corresponding to the clip and obtaining the block from a source which different than the media stream, obtaining the block from a on-line retailer as this arrangement would facilitate the user to obtain media content from the alternate sources as taught by Hasegawa, thereby providing user with choices.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Menard in view of Nishiuchi as applied to claim 14 above, and further in view of Perlman (US PAT: 6,125,259).

Regarding claim 19, the combination does not teach the following: the receiver is coupled to receive the media stream over a wired broadcast channel.

However, Perlman discloses intelligent and user friendly channel up/down control which teaches the following: the receiver is coupled to receive the media stream over a wired broadcast channel (col. 4 lines 43-61).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: the receiver is coupled to receive the media stream over a wired broadcast channel as this arrangement would provide another well known system to receive media stream as taught by Perlman.

Response to Arguments

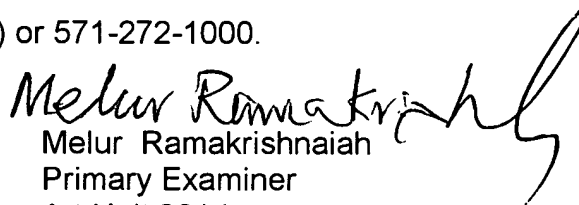
Applicant's arguments with respect to claims 1-13, 14-20, 57-60, 70-84 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Melur Ramakrishnaiah
Primary Examiner
Art Unit 2614